

107TH CONGRESS
2D SESSION

S. 2120

To amend section 313 of the Tariff Act of 1930 to modify the provisions relating to drawback claims, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 12, 2002

Mr. BREAU (for himself and Ms. LANDRIEU) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend section 313 of the Tariff Act of 1930 to modify the provisions relating to drawback claims, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—MODIFICATION OF**
4 **PROVISIONS RELATING TO**
5 **DRAWBACK CLAIMS**

6 **SEC. 101. MERCHANDISE NOT CONFORMING TO SAMPLE OR**
7 **SPECIFICATIONS.**

8 Section 313(c) of the Tariff Act of 1930 (19 U.S.C.
9 1313(c)), is amended to read as follows:

1 “(c) MERCHANDISE NOT CONFORMING TO SAMPLE
2 OR SPECIFICATIONS.—

3 “(1) CONDITIONS FOR DRAWBACK.—Upon the
4 exportation or destruction under the supervision of
5 the Customs Service of articles or merchandise—

6 “(A) upon which the duties have been
7 paid,

8 “(B) which has been entered or withdrawn
9 for consumption,

10 “(C) which is—

11 “(i) not conforming to sample or spec-
12 ifications, shipped without the consent of
13 the consignee, or determined to be defec-
14 tive as of the time of importation, or

15 “(ii) ultimately sold at retail and for
16 any reason returned to and accepted by
17 the importer or the claimant under the
18 provisions of the importer’s or claimant’s
19 merchandise warranty provision, and

20 “(D) which, within 3 years after the date
21 of importation or withdrawal, as applicable, has
22 been exported or destroyed under the super-
23 vision of the Customs Service,

1 the full amount of the duties paid upon such mer-
 2 chandise, less 1 percent, shall be refunded as draw-
 3 back.

4 “(2) DESIGNATION OF IMPORT ENTRIES.—Not-
 5 withstanding paragraph (1), for purposes of para-
 6 graph (1)(C)(ii), drawback may be claimed by desig-
 7 nating any entry of merchandise that was imported
 8 within 1 year before the date of exportation or de-
 9 struction of the merchandise described in paragraph
 10 (1) under the supervision of the Customs Service.
 11 The returned merchandise, at the time of its impor-
 12 tation, must be commercially interchangeable with
 13 the merchandise designated for drawback.

14 “(3) WHEN DRAWBACK CERTIFICATES NOT RE-
 15 QUIRED.—For purposes of this subsection, drawback
 16 certificates are not required if the drawback claim-
 17 ant and the importer are the same party, or if the
 18 drawback claimant is a drawback successor to the
 19 importer as defined in subsection (s)(3).”.

20 **SEC. 102. TIME LIMITATION ON EXPORTATION OR DE-**
 21 **STRUCTION.**

22 Section 313(i) of the Tariff Act of 1930 (19 U.S.C.
 23 1313(j)), is amended—

24 (1) by striking “No” and inserting “Unless oth-
 25 erwise provided for in this section, no”; and

1 (2) by inserting “, or destroyed under the su-
2 pervision of the Customs Service,” after “exported”.

3 **SEC. 103. USE OF DOMESTIC MERCHANDISE ACQUIRED IN**
4 **EXCHANGE FOR IMPORTED MERCHANDISE**
5 **OF SAME KIND AND QUALITY.**

6 Section 313(k) of the Tariff Act of 1930 (19 U.S.C.
7 1313(k)), is amended—

8 (1) by striking “(k)” and inserting “(k)(1)”;
9 and

10 (2) by adding at the end the following new
11 paragraph:

12 “(2) For purposes of subsections (a) and (b),
13 the use of any domestic merchandise acquired in ex-
14 change for a drawback product of the same kind and
15 quality shall be treated as the use of such drawback
16 product if no certificate of delivery or certificate of
17 manufacture and delivery pertaining to such draw-
18 back product is issued, other than that which docu-
19 ments the product’s manufacture and delivery. As
20 used in this paragraph, the term ‘drawback product’
21 means any domestically produced product manufac-
22 tured with imported merchandise that is subject to
23 drawback.”

1 **SEC. 104. PACKAGING MATERIAL.**

2 Section 313(q) of the Tariff Act of 1930 (19 U.S.C.
3 1313(q)), is amended to read as follows:

4 “(q) PACKAGING MATERIAL.—

5 “(1) PACKAGING MATERIAL UNDER SUB-
6 SECTIONS (c) AND (j).—Packaging material, whether
7 imported and duty paid, and claimed for drawback
8 under either subsection (c) or (j)(1), or imported
9 and duty paid, or substituted, and claimed for draw-
10 back under subsection (j)(2), shall be eligible for
11 drawback, upon exportation or destruction, of 99
12 percent of any duty, tax, or fee imposed under Fed-
13 eral law on such imported material.

14 “(2) PACKAGING MATERIAL UNDER SUB-
15 SECTIONS (a) AND (b).—Packaging material that is
16 manufactured or produced under subsection (a) or
17 (b) shall be eligible for drawback, upon exportation
18 or destruction, of 99 percent of any duty, tax, or fee
19 imposed under Federal law on the imported or sub-
20 stituted merchandise used to manufacture or
21 produce such material.

22 “(3) CONTENTS.—Packaging material described
23 in paragraphs (1) and (2) shall be eligible for draw-
24 back whether or not they contain articles or mer-
25 chandise, and whether or not any articles or mer-
26 chandise they contain are eligible for drawback.

1 “(4) EMPLOYING PACKAGING MATERIAL FOR
 2 ITS INTENDED PURPOSE PRIOR TO EXPORTATION.—
 3 The use of any packaging material for its intended
 4 purpose prior to exportation or destruction shall not
 5 be treated as a use of such material prior to expor-
 6 tation or destruction for purposes of applying sub-
 7 section (a), (b), or (c), or paragraph (1)(B) or
 8 (2)(C)(i) or subsection (j).”.

9 **SEC. 105. LIMITATION ON LIQUIDATION.**

10 Section 504 of the Tariff Act of 1930 (19 U.S.C.
 11 1504) is amended—

12 (1) by striking subsections (a) and (b) and in-
 13 serting the following:

14 “(a) LIQUIDATION.—

15 “(1) ENTRIES FOR CONSUMPTION.—Unless an
 16 entry of merchandise for consumption is extended by
 17 statute or court order, except as provided in section
 18 751(a)(3), an entry of merchandise for consumption
 19 not liquidated within 1 year from—

20 “(A) the date of entry of such merchan-
 21 dise,

22 “(B) the date of the final withdrawal of all
 23 such merchandise covered by a warehouse
 24 entry,

1 “(C) the date of withdrawal from ware-
2 house of such merchandise for consumption if,
3 pursuant to regulations issued under section
4 505(a), duties may be deposited after the filing
5 of any entry or withdrawal from warehouse, or

6 “(D) if a reconciliation is filed, or should
7 have been filed, the date of the filing under sec-
8 tion 484 or the date the reconciliation should
9 have been filed,

10 shall be deemed liquidated at the rate of duty, value,
11 quantity, and amount of duties asserted at the time
12 of entry by the importer of record. Notwithstanding
13 section 500(e), notice of liquidation need not be
14 given of an entry deemed liquidated.

15 “(2) ENTRIES OR CLAIMS FOR DRAWBACK.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), unless an entry or claim for
18 drawback is extended under subsection (b) or
19 suspended as required by statute or court order,
20 an entry or claim for drawback not liquidated
21 within 1 year from the date of entry or claim
22 shall be deemed liquidated at the drawback
23 amount asserted by the claimant at the time of
24 entry or claim. Notwithstanding section 500(c),

1 notice of liquidation need not be given of an
2 entry deemed liquidated.

3 “(B) EXCEPTION.—An entry or claim for
4 drawback filed before the date of the enactment
5 of this paragraph, the liquidation of which is
6 not final as of the date of the enactment of this
7 paragraph, shall be deemed liquidated on the
8 date that is 1 year after the date of the enact-
9 ment of this paragraph at the drawback
10 amount asserted by the claimant at the time of
11 the entry or claim.

12 “(3) PAYMENTS OR REFUNDS.—Payment or re-
13 fund of duties owed pursuant to paragraph (1) or
14 (2) shall be made to the importer of record or draw-
15 back claimant, as the case may be, not later than 90
16 days after liquidation.

17 “(b) EXTENSION.—The Secretary may extend the pe-
18 riod in which to liquidate an entry if—

19 “(1) the information needed for the proper ap-
20 praisement or classification of the imported or with-
21 drawn merchandise, or for determining the correct
22 drawback amount, or for ensuring compliance with
23 applicable law, is not available to the Customs Serv-
24 ice; or

1 “(2) the importer of record or drawback claim-
2 ant, as the case may be, requests such extension and
3 shows good cause therefor.

4 The Secretary shall give notice of an extension under this
5 subsection to the importer of record or drawback claimant,
6 as the case may be, and the surety of such importer of
7 record or drawback claimant. Notice shall be in such form
8 and manner (which may include electronic transmittal) as
9 the Secretary shall by regulation prescribe. Any entry the
10 liquidation of which is extended under this subsection shall
11 be treated as having been liquidated at the rate of duty,
12 value, quantity, and amount of duty asserted at the time
13 of entry by the importer of record, or the drawback
14 amount asserted at the time of entry by the drawback
15 claimant, at the expiration of 4 years from the applicable
16 date specified in subsection (a).”;

17 (2) in subsection (c)—

18 (A) by inserting “or drawback claimant, as
19 the case may be,” after “to the importer of
20 record”; and

21 (B) by inserting “or drawback claimant”
22 after “of such importer of record”; and

23 (3) in subsection (d), by striking the period at
24 the end and inserting “or (in the case of a drawback

1 entry or claim) at the drawback amount asserted at
 2 the time of entry by the drawback claimant.”.

3 **SEC. 106. PENALTIES FOR FALSE DRAWBACK CLAIMS.**

4 Section 593A(h) of the Tariff Act of 1930 (19 U.S.C.
 5 1593a(h)) is amended by striking “subsection (g)” and in-
 6 serting “subsections (c) and (g)”.

7 **SEC. 107. EFFECTIVE DATE.**

8 (a) SECTIONS 101, 102, 103, 104, AND 106.—The
 9 amendments made by sections 101, 102, 103, 104, and
 10 106 shall take effect on the date of the enactment of this
 11 Act, and shall apply to—

12 (1) any drawback entry filed on and after such
 13 date of enactment; and

14 (2) any drawback entry filed before such date of
 15 enactment if the liquidation of the entry is not final
 16 on such date of enactment.

17 (b) SECTION 105.—The amendments made by section
 18 105 shall take effect on the date of the enactment of this
 19 Act, and shall apply to—

20 (1) any entry of merchandise for consumption or
 21 entry or claim for drawback filed on and after such
 22 date of enactment; and

23 (2) any entry or claim for drawback filed before
 24 such date of enactment if the liquidation of the

1 entry or claim is not final on such date of enact-
2 ment.

3 **TITLE II—LIQUIDATION OR RE-**
4 **LIQUIDATION OF CERTAIN**
5 **ENTRIES**

6 **SEC. 201. LIQUIDATION OR RELIQUIDATION OF CERTAIN**
7 **ENTRIES.**

8 (a) IN GENERAL.—Notwithstanding section 514 of the
9 Tariff Act of 1930 (19 U.S.C. 1514) or any other provi-
10 sion of law, and subject to subsection (b), the United
11 States Customs Service shall, not later than 180 days
12 after the receipt of the request described in subsection (b),
13 liquidate or reliquidate each entry described in subsection
14 (d) by applying the column 1 general rate of duty of the
15 Harmonized Tariff Schedule of the United States to each
16 entry that is liquidated or reliquidated, regardless of
17 whether the entry was made under the column 1 special
18 rate of duty of such schedule.

19 (b) REQUESTS.—Liquidation or reliquidation may be
20 made under subsection (a) with respect to an entry de-
21 scribed in subsection (d) only upon a request therefor is
22 filed with the Customs Service.

23 (c) PAYMENT OF AMOUNTS DUE.—Any amounts due
24 to the United States pursuant to the liquidation or reliqui-
25 dation of an entry under subsection (a) shall be paid not

1 later than 180 days after the date of such liquidation or
 2 reliquidation.

3 (d) AFFECTED ENTRIES.—The entries referred to in
 4 subsection (a), filed at the ports of Laredo, Texas (des-
 5 ignated as port of entry 2304), Hidalgo, Texas (des-
 6 ignated as port of entry 2305), and Wilmington, Delaware
 7 (designated as port of entry 1103), are as follows:

	Port of Entry	Date of Entry
95300618568	2305	02/22/95
95300618576	2305	02/22/95
95300619236	2305	02/27/95
95300619277	2305	02/27/95
95300619806	2305	03/02/95
95300619871	2305	03/02/95
95300620142	2305	03/07/95
95300620176	2305	03/03/95
95300620184	2305	03/03/95
95300620911	2305	03/07/95
95300635133	2305	04/07/95
95300635141	2305	04/07/95
95300635950	2305	04/12/95
95300635968	2305	04/12/95
95300636370	2305	04/14/95
95300636388	2305	04/14/95
95300640554	2305	05/09/95
95300640653	2305	05/10/95
95300656592	2304	11/05/95
95300657665	2304	11/29/95
95300657756	2304	12/02/95
95300658358	2304	12/16/95
95300658408	2304	12/17/95
95300658572	2304	12/19/95
95300658648	2304	12/22/95
95300658754	2304	12/22/95
95300658945	2304	12/27/95
95300659018	2304	12/28/95
95300659117	2304	12/29/95
95300659208	2304	01/02/96
95300659398	2304	01/05/96
95300659513	2304	01/08/96
95300659547	2304	01/09/96
95300659679	2304	01/11/96
95300659737	2304	01/14/96
95300659794	2304	01/13/96
95300659810	2304	01/14/96
95300659844	2304	01/15/96

	Port of Entry	Date of Entry
95300659851	2304	01/15/96
95300659901	2304	01/16/96
95300659919	2304	01/16/96
95300659935	2304	01/17/96
95300660065	2304	01/18/96
95300660107	2304	01/19/96
95300660172	2304	01/22/96
95300660180	2304	01/22/96
95300660248	2304	01/22/96
95300660362	2304	01/23/96
95300660388	2304	01/24/96
95300660560	2304	01/25/96
95300660743	2304	01/27/96
95300660818	2304	01/29/96
95300660826	2304	01/29/96
95300704053	2305	05/16/95
95300704061	2305	05/16/95
95300704889	2305	05/22/95
95300704897	2305	05/22/95
95300705886	2305	05/31/95
95300705969	2305	05/30/95
95300706900	2305	06/09/95
95300706926	2305	06/09/95
95300752656	2305	02/02/96
95300752698	2305	02/04/96
95300752805	2305	02/05/96
95300752813	2305	02/05/96
95300752870	2305	02/06/96
95300752904	2305	02/06/96
95300753001	2305	02/07/96
95300753076	2305	02/09/96
R7410350736	1103	11/29/95
R7410350769	1103	11/29/95
R7410350801	1103	11/29/95
R7410350835	1103	11/29/95
T8500081575	2305	06/16/95
T8500081591	2305	06/16/95
T8500081716	2305	06/20/95
T8500081724	2305	06/20/95
T8500081815	2305	06/27/95
T8500081823	2305	06/28/95
T8500081922	2305	06/27/95
T8500081930	2305	06/27/95
T8500082052	2305	07/01/95
T8500082060	2305	07/01/95
T8500082326	2305	07/14/95
T8500082342	2305	07/14/95
T8500082458	2305	07/22/95
T8500082482	2305	07/22/95
T8500082508	2305	07/24/95
T8500082516	2305	07/24/95
T8500082581	2305	07/30/95
T8500082599	2305	07/30/95
T8500082656	2305	08/03/95

	Port of Entry	Date of Entry
T8500082664	2305	08/03/95
T8500082748	2305	08/09/95
T8500082797	2305	08/10/95
T8500082839	2305	08/14/95
T8500082847	2305	08/14/95
T8500084462	2305	10/22/95

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